

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

YOUFIT HEALTH CLUBS, LLC, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 20-12841 (MFW)

(Jointly Administered)


**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK     )  
  ) ss:  
COUNTY OF KINGS     )

I, Sung Jae Kim, declare:

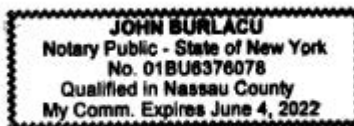
1. I am over the age of 18 years and not a party to these chapter 11 cases.
2. I am employed by Donlin, Recano & Company, Inc. ("DRC"), 6201 15th Avenue, Brooklyn, NY 11219.
3. On the 29<sup>th</sup> day of December, 2020, DRC, acting under my supervision, caused to be served the *Notice of Termination of Challenge Period*, attached hereto as Exhibit 1, to be served via electronic mail upon the parties as set forth on Exhibit 2; via Federal Express Priority Overnight delivery upon the parties as set forth on Exhibit 3; and via USPS Express Mail upon the parties as set forth on Exhibit 4, attached hereto.

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed this 6<sup>th</sup> day of January, 2021, Brooklyn, New York.

By   
Sung Jae Kim

Sworn before me this  
6<sup>th</sup> day of January, 2021

  
Notary Public



<sup>1</sup> The last four digits of YouFit Health Clubs, LLC's tax identification number are 6607. Due to the large number of debtor entities in these chapter 11 cases, for which joint administration has been requested, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the proposed claims and noticing agent at [www.donlinrecano.com/yfhc](http://www.donlinrecano.com/yfhc). The mailing address for the debtor entities for purposes of these chapter 11 cases is: 1350 E. Newport Center Dr., Suite 110, Deerfield Beach, FL 33442.

## **EXHIBIT 1**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

YOUFIT HEALTH CLUBS, LLC, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 20-12841 (MFW)

(Jointly Administered)

**NOTICE OF TERMINATION OF CHALLENGE PERIOD**

**PLEASE TAKE NOTICE THAT** on November 9, 2020, the Debtors filed a motion [Docket No. 17] (the “**Sale Motion**”) with the United States Bankruptcy Court for the District of Delaware (the “**Court**”) seeking, among other things, entry of an order approving the sale of substantially all of the Debtors’ assets (the “**Sale**”) to YF FC Acquisition, LLC (the “**Buyer**”), which is an entity formed by the Debtors prepetition and postpetition lenders, subject to the submission of higher or better offers. On December 15, 2020, the Debtors filed a notice [Docket No. 521] cancelling the Auction (as defined in the Sale Motion) and designating the Buyer as the Successful Bidder (as defined in the Sale Motion).

**PLEASE TAKE FURTHER NOTICE THAT** the official committee of unsecured creditors (the “**Committee**”) provided the Debtors and the Buyer a draft objection to the Sale. Following discussions among the Committee, the Debtors, and the Buyer, the Committee’s objection was resolved on the terms reflected in the Sale Order (as defined below), discussed on the record at the hearing to consider the Sale, and summarized on the attached **Schedule 1** (the “**Committee Objection Resolution**”).

**PLEASE TAKE FURTHER NOTICE THAT** one of the terms of the Committee Objection Resolution relates to the *Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 365 and 507, Bankruptcy Rules 2002, 4001, 6004 and 9014 and Local Bankruptcy Rule 4001-2 (I) Authorizing the Debtors to Obtain Postpetition Senior Secured Superpriority Financing, (II) Authorizing the Debtors’ Limited Use of Cash Collateral, (III) Granting Adequate Protection to the Prepetition Secured Parties, and (IV) Granting Related Relief* [Docket No. 231] (the “**Final DIP Order**”)<sup>2</sup> entered by the Court on December 4, 2020. Specifically, the Committee has agreed that the deadline, which under the terms of the Final DIP Order is currently January 22, 2021 (the “**Challenge Deadline**”), for any party in interest and all of their successors-in-interest and assigns, with requisite standing and authority, who has timely filed the appropriate pleadings (including a motion to obtain requisite standing or authority) to commence and has timely commenced an

<sup>1</sup> The last four digits of YouFit Health Clubs, LLC’s tax identification number are 6607. Due to the large number of debtor entities in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the claims and noticing agent at [www.donlinrecano.com/yfhc](http://www.donlinrecano.com/yfhc). The mailing address for the debtor entities for purposes of these chapter 11 cases is: 1350 E. Newport Center Dr., Suite 110, Deerfield Beach, FL 33442.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meaning ascribed to those terms in the Final DIP Order.

appropriate proceeding required under the Bankruptcy Code and Bankruptcy Rules, including, without limitation, as required pursuant to Part VII of the Bankruptcy Rules challenging the Prepetition Lien and Claim Matters shall expire upon the entry of the Sale Order.

**PLEASE TAKE FURTHER NOTICE THAT** on December 28, 2020 the Court entered the *Order (I) Authorizing the Sale of All of the Debtors' Assets Free and Clear of Liens, Claims, Encumbrances, and other Interests, (II) Authorizing and Approving the Debtors' Performance Under the Stalking Horse Purchase Agreement, (III) Approving the Assumption and Assignment of Certain of the Debtors' Executory Contracts and Unexpired Leases Related Thereto and (IV) Granting Related Relief* [Docket No. 564] (the "**Sale Order**").

**PLEASE TAKE FURTHER NOTICE THAT**, as set forth in Paragraph 8 of the Sale Order, **objections to the expiration of the Challenge Deadline must be filed by January 12, 2021** (the "**Objection Deadline**"). All such objections must (a) be in writing, (b) state, with specificity, the legal and factual bases thereof, and (c) be timely filed with the Court and served so as to be **actually received** no later than the Objection Deadline by: (i) counsel for the Debtors, Greenberg Traurig, LLP, (a) The Nemours Building, 1007 North Orange Street, Suite 1200, Wilmington, DE 19801 (Attn: Dennis A. Meloro ([melorod@gtlaw.com](mailto:melorod@gtlaw.com)) and (b) 77 West Wacker Dr., Suite 3100, Chicago, IL 60601 (Attn: Nancy A. Peterman ([petermann@gtlaw.com](mailto:petermann@gtlaw.com)), Eric Howe ([howee@gtlaw.com](mailto:howee@gtlaw.com)), and Nicholas E. Ballen ([ballenn@gtlaw.com](mailto:ballenn@gtlaw.com))); (ii) the Office of the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801, Attn: Hannah McCollum, Esq. ([hannah.mccollum@usdoj.gov](mailto:hannah.mccollum@usdoj.gov)); (iii) counsel for the Debtors' prepetition and postpetition agent and lenders and the Stalking Horse Bidder, (a) Winston & Strawn LLP, 200 Park Avenue, New York, NY 10166, Attn: Carey D. Schreiber, Esq. ([cschreiber@winston.com](mailto:cschreiber@winston.com)) and Gregory M. Gartland, Esq. ([ggartland@winston.com](mailto:ggartland@winston.com)), and (b) Young Conaway Stargatt & Taylor, LLP, 1000 N. King Street, Wilmington, Delaware 19801, Attn: Joseph Barry, Esq. ([jbarry@ycst.com](mailto:jbarry@ycst.com)) and Joseph M. Mulvihill, Esq. ([jmulvihill@ycst.com](mailto:jmulvihill@ycst.com)); (iv) counsel for the DIP Agent and Prepetition Agent, Holland & Knight LLP, 150 N. Riverside Plaza, Suite 2700, Chicago, IL 60606, Attn: Joshua Spencer ([joshua.spencer@hklaw.com](mailto:joshua.spencer@hklaw.com)), Phillip W. Nelson ([phillip.nelson@hklaw.com](mailto:phillip.nelson@hklaw.com)), and Anastasia Sotiropoulos ([anastasia.sotiropoulos@hklaw.com](mailto:anastasia.sotiropoulos@hklaw.com)); (v) counsel for the Official Committee of Unsecured Creditors, Berger Singerman, LLP, 1450 Brickell Avenue, Suite 1900, Miami, FL 33131 (Attn: Brian G. Rich ([brich@bergersingerman.com](mailto:brich@bergersingerman.com)) and Michael Niles ([mniles@bergersingerman.com](mailto:mniles@bergersingerman.com))) and Pachulski Stang Ziehl & Jones LLP, 919 N. Market Street, 17th Floor, Wilmington, DE 19801 (Attn: Bradford Sandler ([bsandler@pszjlaw.com](mailto:bsandler@pszjlaw.com)) and Colin Robinson ([crobinson@pszjlaw.com](mailto:crobinson@pszjlaw.com))).

**PLEASE TAKE FURTHER NOTICE THAT the expiration of the Challenge Deadline shall apply to any party-in-interest that does not file an objection by the Objection Deadline.** Solely as to any party-in-interest (other than the Debtors and the Committee) that files an objection by the Objection Deadline, the Challenge Deadline is deemed extended through the earlier of (i) the Challenge Deadline (as set forth in the Final DIP Order solely for such party filing such objection), (ii) the date such objection is resolved amongst the DIP Agent, the DIP Lenders, the Debtors, and the objecting party, or (iii) the date the Court acts on such objection. To the extent any such objections are filed and not resolved among the DIP Agent, the DIP Lenders, the Debtors, and the objecting party, if any, such parties' rights are reserved to request a hearing on the matter on shortened notice.

Dated: December 29, 2020

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*Counsel for the Debtors and  
Debtors in Possession*

**Schedule 1**

(Summary of Committee Objection Resolution)

### **Summary of Committee Objection Resolution**

*This document is for summary purposes only and is subject in all respects to entry of appropriate orders by the Bankruptcy Court, including, as applicable, the Sale Order and/or an order confirming a plan of liquidation.*

1. Committee agrees to support the sale to the Lenders/Stalking Horse Bidder pursuant to the Stalking Horse APA.
2. Lenders to have an allowed prepetition deficiency claim up to \$23,500,000 (the “Lender Deficiency Claim”), which may be reduced by the lenders in their sole discretion if they choose to credit bid/assume more than \$75,000,000.
3. Upon entry of the Sale Order, the Challenge Period under the Final DIP Order will expire.
4. Without limiting the Acquired Assets in the APA, all claims, rights, credits causes of action, etc. set forth in section 2.1(p) of the APA, including all Avoidance Actions (as defined in the DIP Credit Agreement) and D&O Causes of Action (including claims against Rick Berks, Christy Berks Stross, Melissa Berks Muniz, Melinda Berks and their other family members—e.g., noncompete—other than West Central Avoidance Action (as defined below) subject to paragraphs 6.b.2 and 7 below) and proceeds thereof would be Acquired Assets.
  - a. The Lenders would agree not to prosecute Avoidance Actions against trade vendors and lessors.
  - b. See paragraph 6.b.3. below regarding cash recovery to Lenders from Avoidance Actions against Rick Berks, Christy Berks Stross, Melissa Berks Muniz or Melinda Berks (such Avoidance Actions against such individuals, the “**Berks Actions**”).
  - c. Lenders have no obligation to prosecute any claims or assert any rights whatsoever.
5. Lenders agree to a plan process (no extra funds or action required) subject to agreement that the plan will provide for treatment of remaining lender claims per the Code, releases and exculpation of all lender parties and their advisors and plan is consistent with the settlement.
6. Funds in the Budget—GT Professional Line Item, Committee Professional Line Item and Wind Down Line Item—can be used for drafting, filing and implementing combined disclosure statement/plan, including potential funding of claims under the plan, including
  - a. Payment of any priority and admin claims.
  - b. Any leftover funds from such line items (“**Wind Down Funds**”) would go to a liquidating trust to fund prosecution of West Central Avoidance Action (as defined below) and distributions
    1. Liquidating trust to be part of the plan, to be controlled by the Committee;

2. Avoidance Action against West Central Construction (\$12,500,000 in past 4 years) (the “**West Central Avoidance Action**”) will be left for the liquidating trust to prosecute and with full authority to resolve;
3. The holders of the Lender Deficiency Claim shall be entitled to receive from liquidating trust recoveries no more than the lesser of (x) their pro rata share of the total GUC pool or (y) 65% (such lesser amount, the “**Lender Recovery Percentage**”) of such recoveries; provided that the first \$350,000 of recoveries by the liquidating trust plus any remaining Wind Down Funds shall be distributed to holders allowed GUC claims except to the holders of the Lender Deficiency Claim; provided further that, in addition to the prior proviso, in the event that the lenders receive a cash recovery on account of Berks Actions, an amount equal to the Lender Recovery Percentage as applied to such recovery shall first be distributed from any recovery on account of the West Central Avoidance Action to holders allowed GUC claims other than the holders of the Lender Deficiency Claim—said otherwise, if the lenders receive a cash recovery on account of Berks Actions, in addition to the 300k above, the lenders subordinate the right to receive from the West Central Avoidance Action an amount equal to the Lender Recovery Percentage as applied to the cash recovery they received on account of Berks Actions to other GUCs.
7. In the event a plan is not confirmed and cases are dismissed or converted, the West Central Avoidance Action will automatically revert to the Lenders as an Acquired Asset with no obligation to any other party.
8. Nothing in here addresses TSA costs which would have to be separately addresses as is currently contemplated in the APA.



## **EXHIBIT 2**

Case 20-12841-MFW Doc 613 Filed 01/07/21 Page 10 of 17  
YouFit Health Clubs, LLC, et al.  
Electronic Mail  
Exhibit Pages

Page # : 1 of 4

12/29/2020 02:14:56 PM

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Case 20-12841-MFW Doc 613 Filed 01/07/21 Page 11 of 17  
YouFit Health Clubs, LLC, et al.  
Electronic Mail  
Exhibit Pages

Page # : 2 of 4

12/29/2020 02:14:56 PM

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Case 20-12841-MFW Doc 613 Filed 01/07/21 Page 12 of 17  
YouFit Health Clubs, LLC, et al.  
Electronic Mail  
Exhibit Pages

Page # : 3 of 4

12/29/2020 02:14:56 PM

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Case 20-12841-MFW Doc 613 Filed 01/07/21 Page 13 of 17  
**YouFit Health Clubs, LLC, et al.**  
**Electronic Mail**  
**Exhibit Pages**

Page # : 4 of 4

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000070P001-1447S-027  
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## **EXHIBIT 3**

**YouFit Health Clubs, LLC, et al.**  
**Federal Express**  
**Exhibit Page**

Page # : 1 of 1

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 79 BISCAYNE LLC  
 GLOBAL REALTY AND MANAGEMENT FL INC  
 4125 NW 88TH AVE  
 SUNRISE FL 33351

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 79 BISCAYNE LLC  
 ALAN J MARCUS REGISTERED AGENT  
 20803 BISCAYNE BLVD  
 AVENTURA FL 33180

006214S002-1447A-027  
 79 BISCAYNE LLC  
 GABRIEL NAVARRO  
 9155 S DADELAND BLVD  
 STE 1216  
 MIAMI FL 33156

006328P001-1447A-027  
 79 BISCAYNE PLAZA LLC  
 GLOBAL REALTY  
 4125 NW 88TH AVE  
 SUNRISE FL 33351

006328S001-1447A-027  
 79 BISCAYNE PLAZA LLC  
 COHEN LEGAL  
 RICHARD S COHEN ESQ JASON L COHEN ESQ  
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 WEST PALM BEACH FL 33401

006254P001-1447A-027  
 CAPSTAR BANK  
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 NASHVILLE TN 37219

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 CORTLAND CAPITAL MARKET SVC LLC  
 AS COLLATERAL AGENT  
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 9TH FL  
 CHICAGO IL 60606

000010P001-1447S-027  
 DELAWARE SECRETARY OF STATE  
 DIVISION OF CORPORATIONS  
 401 FEDERAL ST STE 4  
 DOVER DE 19901

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 DELAWARE STATE TREASURY  
 BANKRUPTCY DEPT  
 820 SILVER LAKE BLVD  
 STE 100  
 DOVER DE 19904

006256P002-1447A-027  
 DESOTO PROPERTIES LLC  
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 HALLANDALE FL 33009

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 GREYLIION  
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 CENTRALIZED INSOLVENCY OPERATION  
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006838S001-1447A-027  
 JAHCO OKLAHOMA PROPERTIES I LLC  
 JAH REALTY LP  
 JAY HENRY  
 750 N ST. PAUL STREET  
 SUITE 900  
 DALLAS TX 75201

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 TD EQUIPMENT FINANCE INC  
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 CHERRY HILL NJ 08003

006818P002-1447A-027  
 UNITED LEASING  
 WHITNEY MARTIN  
 3700 MORGAN AVE  
 EVANSVILLE IN 47715

006818S001-1447A-027  
 UNITED LEASING INC  
 MARTHA AHLERS COO  
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000816P001-1447A-027  
 WELLS FARGO EQUIPMENT FINANCE INC  
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000083P001-1447S-027  
 WESTWOOD PLAZA LLC  
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## **EXHIBIT 4**



**YouFit Health Clubs, LLC, et al.**  
**USPS Express Mail**  
**Exhibit Page**

Page # : 1 of 1

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